

DEC 12 2005**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TROY DALE ARTHUR,

Defendant - Appellant.

No. 04-30286

D.C. No. CR-03-00074-EJL

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Idaho
Edward J. Lodge, District Judge, Presiding

Submitted December 5, 2005^{**}

Before: GOODWIN, W. FLETCHER and FISHER, Circuit Judges.

Troy Dale Arthur appeals the 33-month sentence imposed following his guilty plea conviction for sexual abuse of a minor, in violation of 18 U.S.C. § 2243(a). We have jurisdiction pursuant to 28 U.S.C. § 1291.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

As an initial matter, we reject the government's contention that this appeal should be dismissed because Arthur waived his right to appeal. We may address Arthur's sentence contention because the language of the appeal waiver included in his oral plea agreement does not encompass the right to appeal errors at sentencing. *Cf. United States v. Nunez*, 223 F.3d 956, 958 (9th Cir. 2000) (explaining that courts will enforce a defendant's waiver of his right to appeal if, among other things, the language of the waiver encompasses the defendant's right to appeal on the grounds claimed on appeal).

We remand the sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc).

REMANDED.